

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

EDWARD WISNIEWSKI and	:	
MARY WISNIEWSKI, Co-Administrators	:	Case No.: 1:08-cv-00026-GMS
of the Estate of Eric E. Wisniewski, Deceased,	:	
	:	Jury Trial Demanded
Plaintiffs,	:	
	:	
v.	:	
	:	
OCEAN PETROLEUM, L.L.C., and	:	
BRUCE PREDEOUX,	:	
	:	
Defendants.	:	
	:	
OCEAN PETROLEUM, L.L.C., and	:	
BRUCE PREDEOUX,	:	
	:	
Third-Party Plaintiffs,	:	
	:	
v.	:	
	:	
CATTS PLUMBING REPAIR, INC.,	:	
	:	
Third-Party Defendant.	:	

**THIRD-PARTY COMPLAINT OF DEFENDANTS OCEAN PETROLEUM, L.L.C. AND  
BRUCE PREDEOUX AGAINST CATTS PLUMBING REPAIR, INC.**

Defendants / Third-Party Plaintiffs, Ocean Petroleum, L.L.C., and Bruce Predeoux, by and through their attorneys, Kent & McBride, P.C. pursuant to Federal Rules of Civil Procedure, Rule 14, hereby submit their Third-Party Complaint against Third-Party Defendant, and aver as follows:

1. Upon information and belief, Plaintiffs, Edward Wisniewski and Mary Wisniewski, are husband and wife and are the surviving parents and Co-Administrator of the

Estate of Eric E. Wisniewski, Deceased (“Decedent”) and reside at 107 Megan Drive, Bear, Delaware 19701.

2. Defendant / Third-Party Plaintiff, Ocean Petroleum, L.L.C. (“Ocean Petroleum”) is a Maryland Corporation with its principal place of business at 7167 Worchester Highway, Newark, Maryland 21841.

3. Defendant / Third-Party Plaintiff, Bruce Predeoux (“Predeoux”) is a citizen of Maryland residing at 29087 Raven Court, Salisbury, Maryland 21801.

4. Upon information and belief, Third-Party Defendant, Catts Plumbing Repair, Inc. (“Catts”), is a Delaware Corporation or other legal entity with a Registered Agent at Delaware Business Incorporators, Inc., 3422 Old Capitol Trail, Suite 700, Wilmington, Delaware 19808.

5. Defendants / Third-Party Plaintiffs were sued by Plaintiffs for a Wrongful Death Action and a Survival Action for injuries and other damages for an accident which occurred on February 2, 2006 on Route 1 approximately 2.4 miles south of the Route 299 on-ramp near Townsend, Delaware.

6. Upon information and belief, the negligence and wanton disregard for the safety of its employees of Third-Party Defendant Catts was a contributing factor to the alleged circumstances which resulted in the Catts vehicle, which Decedent was operating, to run out of gas and to become disabled in a hazardous roadway area which ultimately caused the injuries and resultant death of Decedent.

7. Defendants / Third-Party Plaintiffs deny that they are liable to the Plaintiff in any respect. However, in the event that Defendants / Third-Party Plaintiffs are held liable to

Plaintiffs, then Defendants / Third-Party Plaintiffs are entitled to contribution and/or indemnification from Third-Party Defendant in any amount which Defendants / Third-Party Plaintiffs may be required to pay as a result of the wrongful acts of Third-Party Defendant, based upon the relative degrees of fault determined pursuant to the provisions of the Delaware Uniform Contribution Among Tortfeasors law, 10 Del. C. §§ 6301-6308.

8. The proximate cause of Decedent's accident was the negligence of Third-Party Defendant, Catts Plumbing Repair, Inc., as follows:

- a) knowingly permitted its vehicle to be operated on the highway in an unsafe condition with inoperative equipment as to endanger decedent, in violation of 21 Del. C. § 4355(a);
- b) knowingly permitted its vehicle to be operated in an unfit and unsafe condition in violation of 21 Del. C. § 2161;
- c) knowingly permitted its vehicle to be operated in an unsafe condition and in improper and disrepair in violation of 21 Del. C. § 2144;
- d) knowingly breached its common law duty to take reasonable steps to safeguard against the operation of its motor vehicle in a defective condition;
- e) knowingly breached its common law duty to provide a reasonably suitable motor vehicle for its employee;
- f) knowingly breached its common law duty to exercise ordinary care to maintain its vehicle in a reasonably safe condition;
- g) knowingly breached its common law duty to reasonably provide a safe work environment for its employee;

- h) negligently failed to inspect or test the fitness of its vehicle to assure that it is reasonably safe and suitable for the work to be done;
- i) negligently breached its common law duty as an owner of a motor vehicle to assure that the vehicle was in a reasonably safe condition before requiring and permitting it to be operated upon a public highway and failure to assure that it is properly equipped so that at all times is under control and not a menace to other traffic.
- j) negligently breached its common law duty to assure that its vehicle's condition was safe and suitable for the particular kind of use in which it was to be employed;
- k) negligently breached its common law duty to properly inspect and repair the vehicle in a reasonably prudent manner;
- l) negligently failed its duty as an employer to exercise reasonable care to furnish a reasonably safe place in which to work and to maintain such reasonably safe conditions;
- m) negligently failed to properly train its employees to exercise reasonable care in the operation of its negligently maintained equipment.

**WHEREFORE**, Defendants / Third-Party Plaintiffs demand judgment against the Third-Party Defendant for any and all sums it must pay to any party including Plaintiffs, and Defendant / Third-Party Plaintiffs' reasonable costs, legal fees and expenses incurred in defending this litigation, with interest.

**KENT & McBRIDE, P.C.**

By: /s/ David C. Malatesta, Jr.  
David C. Malatesta, Jr., Esquire  
Delaware I.D. No. 3755  
1105 Market Street  
Suite 500, 5<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 777-5477  
Attorney for Defendants

Dated: October 20, 2008